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SUBJECT: BOARD OF AUDITORS (BOA) DECIDES NOT TO COMPLETE
SPECIAL AUDIT OF UN ACTIVITIES IN THE DPRK:UNDP COMMENCES
INDEPENDENT REVIEW.

1.(U) In a letter dated September 26, 2007 from BOA Chairman Philippe Seguin, to the ACABQ Chairman Rajat Saha, the Chairman Seguin explained that the BOA will not complete its audit of UN activities in the DPRK as mandated by the UNDP Executive Board and requested by the ACABQ in its letter to the BOA of June 22, 2007. In his letter to Chairman Saha, Chairman Seguin states that the decision of the BOA to not complete the audit is based on the inability of the BOA to obtain agreement from the DPRK government for visas for the audit team. See para 3 for text of letter. The BOA decision means there will be no on-site validation of results of the BOA's preliminary audit as requested by Member States and the Secretary-General. An on-site validation of audit results and

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an examination of any additional documents located in the DPRK is now dependent on the so-called "Independent Investigative Review of UNDP Activities in the DPRK," which will begin shortly. See paras 3 and 4.

2.(U) Letter from the Chairman of the BOA, Philippe Seguin, to Chairman of the ACABQ, Rajat Saha, dated September 26, 2007. Comment: The two attachments listed in Chairman Seguin's letter were not provided to the ACABQ. End Comment. Begin letter text:

Dear Mr. Saha,

I write to inform you of the status of the ACABQ's request to the Board to undertake a special audit of United Nations activities in the Democratic People's Republic of Korea (DPRK).

In my letter of 29 June 2007, I indicated that the Board accepted the assignment but highlighted that such additional procedures were not likely to effect conclusions already reached. The Board also set out conditions necessary to enable it to undertake the additional procedures. The Administration confirmed to the Board its agreement to these conditions in a letter dated 13 August 2007 (annex 1).

The Administration has, however, been unable to obtain agreement from the DPRK government that visas could be granted to the audit team. In this regard, the Board has received from the Administration a copy of the letter from the DPRK government dated 28 August 2007 (annex 2) indicating that "...the Government of the Democratic People's Republic of Korea (DPRK) is not able to accept your proposed visit to the DPRK by the auditors..."

In view of the foregoing, the Board wishes to report back to the ACABQ that it is unable to commence the audit requested. The Board has decided to redeploy the identified audit staff to its regular work.

Please accept, Sir, assurances of my highest consideration.

End letter text.

3.(U) On September 25, 2007 UNDP published the Terms of Reference (ToR) for the independent review of UNDP activities that it has established. See para 5. USUN has been informally advised that contracts have been issued to the three individuals chosen by UNDP to lead the independent review: Miklos Nemeth (Hungary), Chander Mohan Vasudev (India) and Mary Ann Wyrsh (U.S.).

4.(U) USUN intends to cooperate fully with the investigative review. USUN will work closely with the Department and other concerned USG agencies in order to provide information to the review team that will facilitate its work. USUN will await the results of the independent review to assess how successful it will be in clarifying concerns regarding the effectiveness and credibility of UNDP's programs in the DPRK. USUN notes that despite U.S. objections, the ToR still provides for a consideration of the issue of Ethics Office jurisdiction in the case of a whistleblower who was retaliated against by UNDP, while also allowing for a subsequent Ethics Office Role in this case once the review is completed.

5.(U) The ToR for the Independent Investigative Review of UNDP Operations in DPRK as posted on UNDP's website are as follows:

The Independent Investigative Review shall consist of a comprehensive and detailed investigative review of the UNDP Democratic People's Republic of Korea (DPRK) country office operations during the period 1 January 1999 to 1 March 2007, and shall result in the submission of a report to the Administrator and the UNDP Executive Board. The report shall determine what funds were paid arising out of and/or relating in any way to the UNDP DPRK country programme. It shall also include payments made by UNDP on behalf of other UN entities,

other entities and/or other countries. The report shall make every effort to determine whether such funds were used for their authorized or intended purposes, or were diverted for other purposes. If there is evidence that any such funds may have been diverted, the report shall indicate the manner of such diversion or possible diversion.

The report shall specifically:

1). Identify all payments made by UNDP for itself and by UNDP on behalf of other UN entities, other entities and/or other countries to suppliers of goods and services, including payments made through intermediaries, and determine to the extent possible whether such payments were received by the ultimate beneficiaries. The Report shall identify the bank accounts utilized by or for the benefit of the UNDP Administered activities, including the persons that had signature authority in regard to such accounts.

2). Determine if the projects implemented under the country programme were managed and implemented in accordance with UNDP regulations, rules, guidelines and practices, and with UNDP's Standard Basic Assistance Agreement with the DPRK Government, including whether such projects were effectively monitored and evaluated regularly in accordance with such regulations, rules, guidelines and practices. The report shall identify, enumerate and confirm all project site visits, whether more visits should have been made in accordance with UNDP policies and procedures and whether UNDP international personnel participated in such visits.

3). Identify all equipment that may qualify as having "dual use" procured by or for UNDP projects or procured by UNDP for other UN entities, other entities and/or other countries, and make every effort to determine whether, within the parameters of the rules and regulations that existed at the time, including legal interpretation of such rules and regulations, such equipment was exported by the concerned vendors in

compliance with applicable international export licensing requirements, the nature of the equipment, the names of the vendors who supplied such equipment, and the current disposition and location of such equipment.

4). Identify the facts relating to any counterfeit or suspected counterfeit currency that came into the custody of the UNDP Administered country office or of which the country office became aware, including any applicable UNDP policies regarding the reporting of such counterfeit currency to the relevant issuing country and the actions taken by UNDP in regard to such currency.

5). A complaint has been lodged that UNDP retaliated against an individual for "blowing the whistle" on irregularities in its operations in DPRK. In this respect, review the complainant's allegations related to these operations and the alleged retaliation, make every effort to establish the facts, including about the specific events in DPRK and regarding application of relevant protection policies. After completing the review, the Independent Review Team shall share its findings on this aspect of the Independent Investigative Review with the Director, UN Ethics Office. The Director, UN Ethics Office, could then provide an opinion and formulate recommendations, as may be appropriate, on the retaliation allegations in light of these findings. If the UN Ethics Office requires further investigation of this specific issue, after having reviewed the findings of the investigative review, it can arrange for such follow-up before providing its recommendations, with the full cooperation of UNDP.

6). The Independent Investigative Review may make any recommendations as it sees fit based on conclusions drawn from this Independent Investigative Review, including regarding UNDP's protection policies and any lessons-learned.

In performing its work, the Independent Review Team shall:

A). Take into account the work already carried out and to be carried out by the UN Board of Auditors, and not impair the work of the UN Board of Auditors.

B). Have complete and unrestricted access in New York or wherever they are available and accessible for review to all records in whatever form or media wherever located as is necessary to complete its review and report including but not limited to: UNDP's complete manual checkbook, records of all electronic funds transfers, all other related bank account documents, contracts, receipts, MOUs, all documents related to project site visits and monitoring, all documents related to "dual use" equipment including applications, grants or denials of export licenses, and other relevant documents that

are made available to the Independent Review Team from sources other than UNDP, including private individuals or governmental entities. UNDP shall make all records in its custody or subject to its authority available to the Independent Review Team.

C). Endeavor to interview in New York or wherever available and accessible all parties with knowledge of UNDP operations in the DPRK as the Independent Review Team deems necessary. The Team shall have complete and unrestricted access to all current and former UNDP employees, contractors, and UN Volunteers (collectively "UNDP Personnel") that worked in UNDP, including the DPRK country office, or in relation to the DPRK country program during the relevant time period. UNDP shall use best efforts to make such persons available to the Independent Review Team. Neither UNDP management nor their representatives may be present during any interviews conducted by the Independent Review Team of current or former UNDP Personnel, unless otherwise requested by the Independent Review Team. The statements made in such interviews shall be kept confidential by the Independent Review Team except to the extent such information is cited in the final report. In

the case of the final report submitted, the names and identities of such individuals shall be appropriately protected. All information and documents obtained by the Independent Review Team in the course of performing their work shall be treated with utmost confidentiality and shall be used solely for the purposes of the Investigative Review.

D). The Independent Investigative Review will not seek nor accept supervision or guidance from the Administrator, the Associate Administrator or any other officials or staff of UNDP or of the UN in the conduct of the Independent Investigative Review, or from members of the UNDP Executive Board or from any other Government, and will at all times avoid any conflict of interest or appearance of conflict with UNDP or its officials or personnel. Nothing in this paragraph shall preclude any person from providing relevant information in any form to the Independent Review Team.

E). The Independent Review Team shall be remunerated in accordance with standard UNDP remuneration rates, including travel. The Independent Review Team shall determine its own support staff/Secretariat (logistical support) arrangements, taking into account the need for confidentiality. Where support services are contracted, the services shall be on the basis of standard UNDP remuneration rates and contract terms, in accordance with UNDP procurement rules. Where services of experts and outside consultants (firms/individuals) are required, the Team shall apply UNDP procurement rules, ensuring competency, best value for money, and taking into account any real or perceived conflict of interest.

F). The work of the Independent Review Team shall commence as soon as feasible and the final report should be submitted if at all possible before the end of 2007.

G). The working papers of the Independent Review Team will be packaged and sealed and provided to the Secretary-General for safe-keeping for a period of seven (7) years, consistent with UNDP's document retention policy. Access to the working papers shall be limited to such circumstances as may be agreed by the Secretary-General.

KHALILZAD